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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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In the Matter of

Implementation of Section 309(j)
of the Communications Act
Competitive Bidding

PP Docket No. 93-253

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REPLY COMMENTS
OF
UNIQUE COMMUNICATIONS CONCEPTS

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Unique Communications Concepts ("Unique")^{1/} acting through counsel and in accordance with the Commission's Notice of Proposed Rule Making, FCC 93-455, released October 12, 1993 (the "NPRM"), hereby files its Reply Comments in this proceeding.

In its Initial Comments, Unique proposed the allocation of additional spectrum to PCS blocks C and D. With the added spectrum, Unique proposed reserving the C block for bidding by small businesses and minority or female-owned businesses, with the D block to be reserved for rural telephone companies and entities that were granted PCS experimental licenses and also filed for a PCS "pioneer's preference."

I. REALLOCATION OF SPECTRUM

Like Unique, Alliance Telecom, Inc. ("ATI") also recognized that licensees with 20 MHz blocks may have a difficult time competing with licensees controlling 30 MHz blocks. ATI Comments at p.3. ATI proposed that certain incentives be put in place to

^{1/} Unique is a wholly-owned subsidiary of Pacific Data Telecommunications, Inc.

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assure a level playing field. Id. Cook Inlet Region, Inc. ("CIR") also recognized that stand-alone 10MHz and 20 MHz blocks might not be sufficient to allow competition with the larger entities bidding on the bigger frequency blocks, suggesting that the set-asides would result in nothing more than a "spectrum ghetto." CIR Comments at p. 25-30.^{2/} CIR's solution is to allow aggregation of set-aside blocks by designated entities through combination bidding. Id.^{3/} Unique believes, however, that the surest, simplest way to level the competitive field would be to equalize the size of the frequency blocks, as it proposed in its Comments.

II. INNOVATOR/RURAL TELCO SET-ASIDE

Corporate Technology Partners ("CTP") agrees with Unique that PCS technological "innovators" that did not receive a "pioneer's preference" should be eligible for some special consideration. CTP proposes a 10% "innovator's bidding preference." CTP Comments at pp.2-4. GVNW, Inc., U.S. Intelco, Inc. ("USIN") and Minnesota Equal Access Network Services, Inc. ("MEANS") propose that a frequency block (Channel Block C) be set aside solely for use of rural telephone companies ("rural telcos"). GVNW Comments at p. 5; USIN Comments at pp. 15-16; MEANS Comments at p. 2. Unique believes that PCS innovators and rural telcos should be placed on equal footing and share access to one frequency block. Setting

^{2/} See, Comments of Independent Cellular Network, pp. 3-4.

^{3/} See, National Rural Telecom Association Comments at p. 8.

aside one block for innovators and rural telcos is the method that would best reward innovators for their investment of time and capital.

American Personal Communications ("APC") and Calcell Wireless, Inc. ("CWI") suggest that rural telcos be allowed to bid on set aside frequencies only in markets where they have rural telephone franchises. APC Comments at p. 6; CWI Comments at p. 22-23.^{4/} APC would also lift the cellular/PCS ownership ban in those areas where the rural telco holds its franchises. Id. at pp. 6-7. Unique supports both of these suggestions. Combined with Unique's proposed special set-aside for rural telcos and PCS pioneers, the survival of rural telco operators would be ensured.^{5/}

III. DEFERRED PAYMENT OPTION

Also, as a means of encouraging the participation of small businesses and minority and female-owned businesses in spectrum auctions, Unique supported a deferred payment plan that would be based on a percentage of the annual gross profits of the licensee for each of the first ten years of its operation.^{6/} The ten-year

^{4/} American Wireless Communications Corporation ("AWCC") also supports some type of preferential treatment for rural telcos seeking to acquire PCS licenses within their franchise area. AWCC Comments at p. 26.

^{5/} Iowa Network Services, Inc. ("INS") would allow rural telcos to bid on set-aside spectrum outside of their franchise area and would also allow rural telcos to aggregate set-aside channels in a market to enable them to have a larger block of usable spectrum. INS Comments at p. 18-21.

^{6/} Unique disagrees with the suggestion of United Native American Telecom, Inc. ("UNAT") that as a prerequisite to any preferential treatment, a minority or female-owned or small business must have
(continued...)

royalty payment plan was also proposed by CWI. CWI Comments at pp. 18-20. At the end of the tenth year, the remainder of the auction bid price would be due. A "royalty" based installment payment plan was supported in initial comments by many small entities,^{7/} and opposed by the larger companies.^{8/}

If the Commission chooses to adopt an income-based method of calculating payments due on the deferred payment plan, then Unique agrees with Fibersouth, Inc. that installment payments should not be due until three years after the license is issued. Fibersouth, Inc. Comments at p. 5. This allows small businesses to concentrate resources on construction of the system instead of paying down the debt before income is generated.

Unlike Unique, which proposed the use of tax certificates solely for minority and female-owned businesses, many commenters supported the use of tax certificates for all "designated entities."^{9/10/} Unique believes that the expansion of the use of

^{6/} (...continued)
experience in the cellular or telephone business. UNAT Comments at p. 5.

^{7/} See generally, Comments of Quentin L. Breen at pp. 3-4; Chickasaw Telephone Company at p. 6; Alliance of Rural Area Telephone and Cellular Service Providers at pp. 4-5; JMP Telecom Systems, Inc. at p. 3; Taxpayer Assets Project at p. 2 and Palmer Communications, Inc. at pp. 2-4.

^{8/} See generally, Comments of BellSouth Corp. at pp. 25-26; Pactel Corporation at p. 5; and Southwestern Bell Corporation at p. 36.

^{9/} "Designated entities" being either a small business or a minority and/or female-owned business, in the NPRM.

^{10/} See, e.g., American Wireless Communications Corporation comments at pp. 23-24.

tax certificates to all designated entities would dilute the value of this vehicle which is more appropriately reserved for minorities and women as further detailed in Unique's Comments.

WHEREFORE, in light of the foregoing, Unique hereby respectfully requests that the Commission adopt these positions as they are fully consistent with the terms of the Budget Act as well as the public interest.

Respectfully submitted,

UNIQUE COMMUNICATIONS CORPORATION

By: 

Scott Craig Cinnamon, Esquire
1901 L Street, N.W.
Suite 200
Washington, DC 20036
(202) 659-4401

Its Counsel

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